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2 NATIONAL INDIAN GAMING COMMISSION

3 CLASS II CLASSIFICATION STANDARDS

4 GOVERNMENT-TO-GOVERNMENT CONSULTATION MEETING

5 WITH THE FT. SILL APACHE NATION

6

7 HELD IN OKLAHOMA CITY, OKLAHOMA

8 ON AUGUST 9, 2006

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24 REPORTED BY: TRENA K. BLOYE, CSR

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1 A P P E A R A N C E S

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4 NATIONAL INDIAN GAMING COMMISSION:

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6 Philip N. Hogen, Chairman

7 Cloyce "Chuck" V. Choney, Commissioner

8 Natalie Hemlock, Special Assistant to the

9 Commission

10 Penny Coleman, Acting General Counsel

11 Michael Gross, Senior Attorney

12 John R. Hay, Staff Attorney

13 Joseph M. Valandra, Chief of Staff

14 Tim Harper, Region Chief, Region V

15 Marcy Pate Olber, Senior Field Investigator

16 Jeanette Ross, Field Investigator

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19 ON BEHALF OF THE FT. SILL APACHE NATION:

20

21 Rick Grellner, Attorney

22 Jeff Houser

23 Steve York

24 Darrell Nott

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1 COMMISSIONER CHONEY: Okay.

2 Welcome to this Class II Regulations

3 Consultation. For your information, we are

4 recording this meeting. And the meeting is a

5 matter of public record. If at a later time

6 you want to have a copy of the transcript, it

7 will be on our website. And you can pull that

8 down and any ones you so desire. Also, at any

9 time if you want to talk to us about anything

10 of Class II standards or anything pertaining

11 to your tribe, feel free to do so, but let us

12 know. We will go off the record. I'm sure

13 you wouldn't want the public to know what you

14 elect to discuss with us.

15 For the record, I'd like to  
16 introduce Phil Hogen. He's the chairman of  
17 the National Indian Gaming Commission. I'm  
18 Chuck Choney, commissioner of the National  
19 Indian Gaming Commission. Seated next to  
20 Chairman Hogen is Penny Coleman, our acting  
21 general counsel. And next to her is Tim  
22 Harper, regional director of Tulsa. And  
23 Janette Ross is also a field investigator from  
24 Tulsa.

25 John Hay is a senior attorney of

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1 our Office of General Counsel. And just  
2 joining us is Joe Valandra. He is our chief  
3 of staff.

4 Also for the record, if you could  
5 identify yourselves for us.

6 MR. HOUSER: Sure. I'm Jeff  
7 Houser, chairman of the Ft. Sill Apache Tribe.

8 MR. GRELLNER: Rick Grellner,  
9 attorney for the Ft. Sill Apache Tribe.

10 MR. YORK: I'm Steve York,  
11 Commissioner for the Ft. Sill Apache Tribe.

12 MR. NOTT: I'm Darrell Nott. I'm  
13 the general manager of the Fort Sill Apache  
14 Casino.

15 COMMISSIONER CHONEY: Okay. Thank  
16 you for coming and welcome. Chairman Hogen.

17 CHAIRMAN HOGEN: Okay. We are  
18 delighted you are here to participate in this  
19 consultation process. On the 25th of May we  
20 published in the "Federal Register" some  
21 proposals that would modify a definition that  
22 we use and another that would set up federal  
23 regulations that, hopefully, would permit us  
24 and tribes to better distinguish what  
25 constitutes an electronic facsimile game of

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1 chance or slot machine of any kind that  
2 required compacts to play from those  
3 electronic and technologic aides congress said  
4 tribes could use to play Class II games that  
5 were beyond compact.

6           We started this process,  
7   literally, years ago. We formed a Tribal  
8   Advisory Committee, put several drafts of our  
9   proposal up on our website. And this spring  
10   we decided it was time to get on with it, put  
11   those in a "Federal Register". The companion  
12   piece to the classification regulations is a  
13   set of technical standards.

14           When we were ready to go this  
15   spring we realized there were some advances in  
16   technology that could be better addressed in  
17   those tech. regs. So we revised them and we  
18   are publishing them in the "Federal Register"  
19   this Friday. They will go along with this  
20   classification set of regulations.

21           And we've got a comment period for  
22   those that ends on the 30th of September. So  
23   we invite you to look at those and send us any  
24   thoughts you might have. We have extended the  
25   comment period with respect to these

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1   classification regs to that same date,

2 September 30th.

3           On the 19th of September we will  
4 be holding a public hearing in Washington on  
5 those subjects. There will be several panels  
6 of presenters. We will hear from tribal  
7 spokesmen, of course. We will hear from  
8 representatives of states with respect to  
9 their views on this, some vendors and some  
10 manufacturers of machines will give us their  
11 thoughts and concerns. He will hear from some  
12 regulators. We will also be addressing the  
13 economic impact of what all this might bring  
14 about.

15           Then after the comment period  
16 concludes we will review all that's been said  
17 and all that's been written to us about this.  
18 We will look at what we have proposed and  
19 decide, should we go forward with this process  
20 and, if so, what should we change, if  
21 anything, with respect to what we have said.

22           So, that's where we're going. And  
23 we are very eager to hear what Fort Sill has  
24 to offer with respect to what we propose.

25 MR. HOUSER: Well, Rick, could you  
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1 outline the -- some of the concerns?

2 MR. GRELLNER: Well, I think we  
3 probably talked about them yesterday. A  
4 couple of questions, probably, Mr. Chairman, I  
5 want to ask is do you think that the Johnson  
6 Act has to be amended to legitimize the regs  
7 in their current proposed form? Do you think  
8 they would fly the way they are written?

9 CHAIRMAN HOGEN: No, I don't think  
10 it needs to be amended. I think it would be a  
11 cleaner package if and when the Johnson Act  
12 were amended. And the reason I say that is  
13 what we would be relying on in the absence of  
14 an amendment to the Johnson Act which says you  
15 can't have gambling devices in Indian country  
16 period. It would be those court cases that  
17 have said you can have technologic aides to  
18 play with Class II. And even though they  
19 might be gambling devices under a strict  
20 reading of the Johnson Act, congress contended



21 there could be an exception to that.

22 But, of course, the Justice

23 Department has sent to congress a proposal

24 that would carve out a place for those

25 technologic aids, and I'm hopeful it gets

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1 enacted. But I'm quite sure it won't get

2 enacted this legislative session, given the

3 small amount of time that's left to do

4 anything.

5 MR. GRELLNER: But if the regs

6 went forward and there was a bunch of

7 litigation, it could be enacted next

8 legislation and bolster the regs process.

9 CHAIRMAN HOGEN: Yeah. I see them

10 going the same direction on parallel tracks.

11 MR. HOUSER: The one consideration

12 I did have, Chairman Hogen, the play will be

13 required to last ten seconds? Is that

14 correct?

15 CHAIRMAN HOGEN: The format that

16 we have outlined in the proposed regulations

17 would require some intervals for players to  
18 participate. If you just push the button once  
19 and the machine does everything else, we  
20 conclude that's a facsimile of a game of  
21 chance.

22 MR. HOUSER: That's not a  
23 technological aid?

24 CHAIRMAN HOGEN: It's a  
25 technological aid that does everything, and

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1 thus, it crosses the line.

2 MR. HOUSER: What's the line?

3 CHAIRMAN HOGEN: If the machine  
4 replicates all of the principal  
5 characteristics of the game, a player doesn't  
6 even count, then you become a facsimile. And  
7 that's easy to say, but hard to determine.

8 And that's why we have tried to go to great  
9 lengths in writing this. We hope we have got  
10 it right. Maybe we haven't considered  
11 everything.

12 MR. HOUSER: It's hard to

13 anticipate how technology can change a game.  
14 It's definitely a tough job to try to figure  
15 that out. But we're probably one of the few  
16 tribes in Oklahoma that doesn't have a compact  
17 right now, because of some legal issues. So  
18 we are entirely dependent upon Class II.

19 And from my understanding of what  
20 I have seen local tribes in the state, even  
21 when the compact issue is resolved, we still  
22 will be dependent upon Class II. And just  
23 from an economic perspective and my  
24 responsibility as chairman, for the tribe to  
25 maintain our economic viability. It would

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1 severely impact our revenue if these  
2 regulations are in effect now.

3 COMMISSIONER CHONEY: Have you  
4 looked at your operations to get an idea what  
5 you feel like you would lose?

6 MR. HOUSER: I have only had  
7 conversations with these guys here about the  
8 regulations and my understanding of how the

9 machines work. And I watch players play.

10 They press the button more than once every ten  
11 seconds.

12 COMMISSIONER CHONEY: Mr. Nott,  
13 would you have an idea.

14 MR. NOTT: I would defer to Steve  
15 on that. I am so very new to Class II. I  
16 spent all my career in Class III gaming. I  
17 know with Class III gaming you are looking at  
18 12 to 15, at least, precisions a minute.

19 COMMISSIONER CHONEY: What I  
20 would --

21 MR. YORK: What I look at on the  
22 deal, if I compare, you know, what we're  
23 currently playing in the Class II or assuming  
24 it's Class II, and just the time frame itself,  
25 by increasing that time frame the way we're

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1 increasing it, we're looking at, probably, the  
2 impact about 60 percent of the business in the  
3 Class II. I mean, all you have to do  
4 mathematically is take from a two-second game

5 to a twelve-second game, and figure that time  
6 in a toward a machine. You know, whether  
7 we're running a 24/7 operation or 18-hour  
8 operation. You just take that time frame and  
9 multiply it. And you can see that it's going  
10 to minimize the game, probably, roughly 60  
11 percent, you know, as far as play.

12 And that would be 60 percent of  
13 the impact and the income of the tribe.

14 CHAIRMAN HOGEN: The Mega Mania  
15 machine, which started here in Oklahoma --

16 MR. YORK: Yeah. I mean, it was  
17 an old 12, 16 type second game. Here is the  
18 bad thing that I see with the regs. If we are  
19 doing a final rule in the technology -- you  
20 know, to me it's like Mega Mania was a horse  
21 and buggy days. And then as Class IIs become  
22 more important -- and I agree with you that we  
23 have had a lot of vendors blur the line, blur  
24 the line between Class II and Class III.

25 Now, I think it's a matter of

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1 terminology. If I look at the reg. currently  
2 being wrote, I would look to say that we're  
3 creating, us as government, is creating a  
4 monopoly for two vendors right now with these  
5 regs. The only two vendors that fit the regs  
6 currently wrote is two of the machines you  
7 have in your conference room that's real time  
8 bingo, belongs to Megananza or M-gam, whatever  
9 you want to call it, public trading company.

10 And then the other game, the only other  
11 current vendor that fits that reg is a game  
12 put out by Rocket.

13 And then -- I mean, if you go  
14 through -- and I have talked to Escobar Gross  
15 quite a bit about in the preliminary phase  
16 your pull-tabs. Can we correct the pull-tab  
17 situation with the electronic bingo? I don't  
18 think so. One reason why is because the way  
19 the pull-tab reg is currently regulated, it's  
20 a monopoly. There is only one company that  
21 has a patent on that whole system. And that  
22 belongs to, really, between Diamond Game and  
23 Ron Clapper is the two that own jointly those

24 patents on that game.

25 So, I tried to talk to Vice Chair

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1 Western at the G2E meeting and tried to tell  
2 him, you know, we need to take the pull-tabs  
3 totally out of this electronic deal and  
4 separate it completely, because I said, you  
5 know our job in government is not to create  
6 monopolies for anybody. You know, it's to  
7 make it where everybody can participate.

8 But you guys know as well as I do  
9 that this is a really highly-regulated  
10 industry that's highly patented. I mean, it  
11 don't make no difference -- IGT, the  
12 stand-alone slot machines we currently got in  
13 Oklahoma, they are highly patented. I mean, I  
14 can't play ticket-in/ticket-out with them,  
15 unless I give them 40,000 for my facility and  
16 then 1250 for every machine in order to get  
17 their license.

18 If I try to run a  
19 tickt-in/ticket-out, and their machines are

20 part of that, then I have to pay them the  
21 money or I can't run it. I mean, that's what  
22 the whole deal is about. I mean, you know, I  
23 don't think any of us have, you know, fought  
24 the classification standards, but we would  
25 like to see the classification standards stay

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1 up with technology.  
2           You know, I have heard Senator  
3 McCain talk, "Well, we didn't envision this 18  
4 years ago." Well, we didn't envision Vietnam  
5 and we didn't envision World War II, and we  
6 didn't envision a lot of things. But, you  
7 know, technology is something that myself, as  
8 a regulator. I'm very concerned with that  
9 technology -- if we're running by what  
10 McCain's statement is, we'd still be driving  
11 around in horse and buggy. I mean, if we were  
12 going to have a meeting in Oklahoma City with  
13 the NIGC visiting us, then you guys would be  
14 planning a month to two months in advance to  
15 be in Oklahoma City, because you would be the



16 riding a horse and buggy to get here.  
17 Can we make a game that is really  
18 a Class II game? I think technology can,  
19 because, you know, Class II industry is a very  
20 economical, viable deal to the tribes and to  
21 the gaming industry.

22 And I have a little different  
23 philosophy about what is speed, what is real  
24 time. Real time to me is actually a speed of  
25 light. I mean, you can have mechanical

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1 displays and stuff, but congress, basically,  
2 is pushing -- well, I don't think congress is  
3 really pushing, because everybody is pushing  
4 on this issue. But are we going to have a  
5 game that's economically viable when we get  
6 through? You know, I won't know.

7 You know, but here is the thing.  
8 When we come up and we sit a standard that  
9 says the game of bingo has to start by two  
10 players, and they have two seconds to buy in,  
11 and then we also further define the position

12 that says you have to have another 15 to 20 to  
13 hook up, you know. If we all had wide area  
14 progressive type games where we are playing at  
15 multiple locations and everybody is a member  
16 of this network where you, you know, at 2:00  
17 in the morning in Pine Ridge Reservation, and  
18 it's 2:00 in the morning in Lawton, Oklahoma,  
19 you have enough players to make that system  
20 work.

21           You know, we started out with that  
22 old Mega Mania. They started broadcasting it  
23 out over a long period of time. And the real  
24 question I have, as long as we don't have to  
25 do away with the wild ball bingo decision that

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1 allows us to have an electronic number  
2 generator to run a bingo game, we're in pretty  
3 good condition, because technology can make  
4 that work. I talk with Nelson quite a bit  
5 about human intervention.

6           You know, a Class II game has to  
7 have human intervention, just like you guys

8 have put forth, is talking about two players.  
9 That's human be intervention. Can you have  
10 human intervention in other games that would  
11 cause it still to be a Class II game? I think  
12 you can.

13 The only thing, the only trouble  
14 is that, you know, it appears we have started  
15 out on a track and we are going away. I mean,  
16 this track has been started a long time ago.  
17 It's like building an old railroad across the  
18 United States. We started this track and we  
19 started building this railroad. And we're  
20 coming up to a point where we're about to join  
21 the tracks together, but the tracks are like  
22 this. (Indicating) They're not meeting. And  
23 you know, whether we start from the east or  
24 west to come to it, but our tracks are not  
25 meeting.

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1 So the way to fix it, and I tried  
2 to tell Nelson this, too, but in the track of  
3 this we need to develop an alternative plan.

4     What is our alternative? If we put these regs  
5     in place and the Department of Justice puts  
6     all of the stuff they need in place, what are  
7     the other alternatives available to the Indian  
8     tribes to put another alternative system in or  
9     something that would be economically viable?

10           I mean, I know Esquire Grellner  
11     has presented some stuff and I have presented  
12     some stuff to the Commission or to various  
13     members of the Commission about having  
14     different alternatives that we can take  
15     instead of just the set alternative that we  
16     are facing right now. I mean, do we have a  
17     fall back plan? Do we have something to offer  
18     in place of it?

19           I mean, you know -- I listen to  
20     this all the time about amending IGRA and  
21     stuff. IGRA, to me, wouldn't need to be  
22     amended if we had people doing their dang  
23     jobs, what the law says.

24           I mean, whether it's the  
25     Department of Interior, BIA level, or NGIC's

1 level. As long as we're doing our job  
2 according to the laws, we can do it. And the  
3 other thing is we can do it in an amendment of  
4 regs. You know, the National Indian Gaming  
5 Commission was granted the ability to define  
6 what Class I, Class II, Class III is. So can  
7 you fix this without consummating the total  
8 regs? I think you can just by changing some  
9 of the definitions that we're currently on,  
10 redefine certain areas. I think we would like  
11 to present that to you in a formal deal. I  
12 mean, that would be better done that way.

13 MR. GRELLNER: To that end, do you  
14 guys have to consider any alternative  
15 regulation proposals inside the comment  
16 process? That's the way I read it. Somebody  
17 submits a comprehensive alternative proposal,  
18 that has to be reviewed, considered, and  
19 thought through. Is that correct or not?

20 CHAIRMAN HOGEN: Very generally.  
21 We have made a proposal. That's the focus of  
22 the discussion. We have asked folks to

23 comment on that. If and when we propose or we  
24 publish final regulations, we will write a  
25 preamble to those, and we will attempt to

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1 address all those comments.

2 Now, we will probably group them.

3 That is, just about every tribe we have spoken  
4 with said: You have got to consider the  
5 economic impact on our tribe. This going to  
6 slow down the play. It's going to cost us  
7 some money. We won't be able to fund our  
8 programs. We won't address each and every  
9 comment, but we will address those generally  
10 if we go forward.

11 If, in fact, commenters send in an  
12 alternative proposal, I expect we will address  
13 that, too, if it's not the one we adopt.

14 MR. GRELLNER: I guess I would ask  
15 Penny, is that how you read the way the notice  
16 requirements are?

17 MS. COLEMAN: Well, the notice and  
18 comment requirements. Do you mean if you send

19 us a set of regulations as an alternative? We  
20 will look at those? Of course we will look at  
21 those.

22 MR. GRELLNER: Obviously, are they  
23 required to be reviewed and considered so they  
24 go in the administrative record.

25 MS. COLEMAN: If you submit them

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1 as part of the process, they will be reviewed  
2 and considered in that context.

3 MR. GRELLNER: Because if you  
4 could write a regulation that better defines  
5 what Class II is define where Class III was in  
6 a way that fixes all these problems, I mean,  
7 if that can be done it seems to me like that  
8 would satisfy our arguments of, you know, why  
9 would we define what Class II is if we could  
10 deal with all of those problems in one class  
11 by defining what Class III is. If that  
12 proposal made its way to you guys -- or is it  
13 too late for that? Is this train headed east  
14 or wherever it's headed?

15 CHAIRMAN HOGEN: We're a long way  
16 down the track. But if somebody comes in with  
17 a better mousetrap, I don't want to say,  
18 "That's not my idea, therefore I'm not  
19 interested in it."

20 But, for crying out loud, we've  
21 been talking about this for three years. And  
22 if somebody comes in on December 30th and  
23 says, "This is the plan you should adopt on  
24 December 31st," it's probably not going to be  
25 looked at as intently as it would have if we

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1 got it in advance.  
2 We started discussion, Steve, you  
3 were talking about the speed of the play, and  
4 I mentioned Mega Mania. And Mega Mania took  
5 about a minute to play. Some of these games  
6 that are being played as Class II where you  
7 push the button once and the game is over, I  
8 think someone earlier in the consultation told  
9 us somebody could play 36 of those games in a  
10 minute. Now, we're trying to get our arms



11 around, is there direct proportionality to the  
12 speed of the game and the amount of money the  
13 tribe is going to make? Are the folks that  
14 come into the bingo hall going to lose 36  
15 times more money if the game can be played 36  
16 times faster?

17 MR. NOTT: Commissioner Hogen,  
18 when we had the old games they made about a  
19 quarter of what our machines make right now,  
20 because people didn't like them. It's not  
21 really entertaining to wait for the system to  
22 process. So if it's a matter of press the  
23 button and wait, press the button again, they  
24 are not going to play it, because it's not  
25 enjoyable.

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1 MS. HOUSER: What was the game?  
2 What was the difference in the games?

3 CHAIRMAN HOGEN: Mega Mania?

4 MR. HOUSER: We went about a  
5 quarter per day what we are doing now. So  
6 it's about four times per machine more. It's

7 going to cut our revenue, conservatively, down  
8 to a quarter what we are making now.

9 CHAIRMAN HOGEN: Well, the games  
10 that are contemplated under these regulations  
11 wouldn't be just that sterile bingo card.  
12 They can have bells and whistles. They could  
13 have slot machine reels. They could be played  
14 in ten seconds as opposed to a minute.

15 It's hard for me to believe that  
16 we would go back totally to the stone age if  
17 we slow these things down a little bit to  
18 allow those intervals to participate. But you  
19 had a point it make.

20 MR. NOTT: If I may, let me speak  
21 just a little bit about the evolution of Class  
22 III gaming, which is most of the gaming  
23 advancement in Indian country and outside the  
24 Indian country around the country. I didn't  
25 expect to see dockside gaming in Mississippi

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1 15 years ago. I didn't expect to see gaming  
2 go outside of Nevada and Atlantic City 10 or

3 15 years ago, but it's happened. And a large  
4 part of what's happened in increasing customer  
5 interest and activity in gaming has been a  
6 huge change in the slot machines themselves.

7       They used to be boring, three real  
8 mechanical games. You played one coin, you  
9 pulled a handle, and you watched the reels  
10 line up. Now you can become interactive.  
11 Multi Coin, Multi Denon games. That's what  
12 people want. They want variety. They want  
13 new games out on the floor. Their perception  
14 of play time is something we can't tell them.

15       So the evolution of Class II  
16 gaming is and is right now following that same  
17 pattern. You see a great variety of vendors  
18 out there vying in the marketplace for  
19 presence, and they are doing it on creating  
20 these interesting games.

21       Game speed and game pace is going  
22 to be determined on what people want. And if  
23 you slow it down to a fraction of what it is  
24 right now, we are going to lose our market to  
25 a Class III market, wherever it is, and we are

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1 going to lose that frequency that customers  
2 want. They call it hit frequency. They want  
3 jackpot payouts. They come for action.  
4       You cut it down to some artificial  
5 number, because it's a regulatory need, and  
6 forget that the market doesn't care about  
7 regulatory needs, and you destroy the  
8 business. My concern would be any artificial  
9 constraint, it's basically telling the  
10 customer that they are playing something they  
11 don't want to play at a pace they don't want  
12 to play is a huge mistake for Class II gaming  
13 and for Indian gaming. That's been the  
14 evolution of Class IIIs. And it is  
15 increasingly clear to me that it is now the  
16 evolution, especially the last couple of  
17 years, in Class II gaming.  
18       You are seeing a large number of  
19 very bright vendors out there providing a lot  
20 of great product. Customers are responding.  
21 We cut that off when we cut ourselves off from

22 what making gaming grow. And we become an  
23 anomaly in the gaming market and the customers  
24 will shun us. I deeply fear any movement in  
25 the direction of slowing the games down in any

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1 way. Customers will know it. They know when  
2 they are not getting hit frequency or play  
3 time. We have proven that across the country  
4 for 20 or 30 years.

5 I worked for Harrah's a number of  
6 times. We did surveys. He would seed a bank  
7 of games, and we would put every other game at  
8 5 percent, 10 percent, 5 percent, 10 percent.  
9 The locals in the gaming market in two weeks  
10 were finding those 5 percent games and play  
11 them. And they will not play those 10 percent  
12 games, and we don't say a word.

13 So the customer is very, very  
14 perceptive. They are smart people. I think  
15 heading in this direction is saying the  
16 regulatory horse is pulling the whole gaming  
17 card, and I think that's wrong.

18           CHAIRMAN HOGEN: Well, you make  
19   some very valid points with respect to the  
20   technology. In a perfect world, I guess, we  
21   would like to see it go through as quickly as  
22   we can. The problem we have is we are  
23   constrained by the language of the Indian  
24   Gaming Regulatory Act. It says there has to  
25   be a recognizable difference between this

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1   Class II game and the thread that comes out of  
2   a history and the act and cases, there's got  
3   to be some player participation. If you're  
4   not paying attention, you can sleep the game,  
5   you can lose it.  
6           If you take that out of there, if  
7   you just say, "Okay, machine, you do  
8   everything." You become that electronic  
9   facsimile. They didn't say Indians can't do  
10   that. They said if you are going to do that,  
11   you have to have a compact. Oklahoma provides  
12   for a compact. I'm not here to carry the  
13   state's water or anything or say -- I'm just

14 saying there is a difference, and it's my job  
15 to try to draw that line. It's a real  
16 challenge.

17 MR. HOUSER: It is a challenge,  
18 Chairman Hogen, because the word technological  
19 is in IGRA, and technology changes everything.  
20 I mean, this is a -- this is a  
21 technologically -- which is a lot different  
22 from the phones we used 30 years ago. It  
23 doesn't have the dial.

24 But I don't know where IGRA says  
25 you define the time frame for a person to play

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1 the game if it's at technological aid. And  
2 they can play 20 games in a minute, I don't  
3 know where the authority lies that has you  
4 determine the game without actually  
5 determining the rules of the game without  
6 actually defining what Bingo is and setting up  
7 a series of rules that are carved in stone  
8 over some time period that may have been some  
9 time ago.

10           It's unfortunate. If you think  
11   you are pulling a bingo ball out of a hopper,  
12   that's a random number generator. It a very  
13   rudimentary one. But the line you are trying  
14   to define is one that can easily be moved.  
15   Technology moves all the lines all time in  
16   terms of what you are capable of doing.  
17           I just don't understand where the  
18   rationale is for making the distinctions that  
19   are made and how that fits within, say, a  
20   technological aide as determined by law. I  
21   can understand somebody falls asleep playing  
22   bingo. You are right. I thought we had that  
23   double dob key still. I'm not trying to be  
24   sarcastic. I'm serious. I thought we had  
25   that. Well, we do, which would be one way to

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1   do it.  
2           But they have the little handheld  
3   bingo devices out. Well, those are things  
4   that -- I mean I think they allow more plays  
5   than paper devices. Everything progresses.



6 It's hard to draw a line with the moving  
7 technology changes that's nature of everything  
8 that we do.

9 I would say, you know, with the  
10 word "technological" in there, it's going to  
11 be a challenge to limit --

12 CHAIRMAN HOGEN: Well, we're going  
13 to take our best shot in saying this. And the  
14 next day a tribe in very good faith is going  
15 to sue us and say we got it wrong. And then a  
16 court is going to look at us and said, "NIGC  
17 you went too far," or "NIGC, you have the  
18 authority to do this." And we will have  
19 clarity, and that will be good, not bad.

20 MR. YORK: Well, I'd like to say  
21 the electronic play of bingo is, just to show  
22 you, here is my dobber on the machine. I'm on  
23 a dob. The dob will start the game. I go  
24 1,001, 1,002, and I will dob again. That's  
25 two dobs. Okay?

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1 Then we're saying we're going to

2 have to have some additional players to play  
3 that game in order to make it economically  
4 viable. In other words, you have to have  
5 multiple players or this machine has to have  
6 the deal where I can play a hundred cards at a  
7 time.

8           You know, that's the old Mega  
9 Mania machine. You used to buy 12 cards or 15  
10 cards or whatever it is. You could buy one  
11 card or you could buy all 15 cards. And then  
12 you still had the two-dob purpose in there.

13           Well, the way I look at it is the  
14 way we are changing it, we're changing it from  
15 a one-touch game to playing a game like this  
16 with my elbows. Because a normal human can go  
17 boom-boom, and you can start a game.

18           What I'm saying to you is  
19 technology -- the Class II industry is so  
20 important to the tribes, and it's a leverage  
21 that the tribe has in compacting with the  
22 states. And when we limit -- if we were  
23 creating this rule where it's just like our  
24 mix rule, like 542, where we are constantly

25 refreshing, constantly looking. With this

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1 rule, are we going to fix technology? Are we  
2 going to keep us in the horse and buggy days,  
3 or are we going to be driving on the Autobahn?

4 I mean, a Class II game, as far as  
5 I'm concerned, you can have a Class II game  
6 right now, technology-wise, that will meet all  
7 the definitions, can be sent to a test lab,  
8 and it will meet the criteria of a bingo game.

9 Once we establish what that time  
10 limit is then we have restricted total  
11 technology on how to develop a game. Real  
12 time. Like I told you, real time is the speed  
13 of light.

14 And I agree with you that  
15 sometimes that blurs the line. We have  
16 manufacturers out there that have, as you are  
17 well aware of, Chairman, that have pushed the  
18 limit of the difference between Class II and  
19 Class III. Now, Class III games, I can tell  
20 you right now here is Oklahoma, we have Class

21     III games that are fit to compact. How long  
22     does it take to play them? It's not just one  
23     touch anymore. It's one touch and you have  
24     got multiple choices.

25             I have seen one game by ID

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1     Interactive called Sherlock and Paws & Claws.  
2     One of them you can be a detective. One of  
3     them you can be a dog. And one of them you  
4     can be a cat. If you play the whole sequence  
5     through to play that game, and the bonus  
6     rounds and stuff in there, you are looking at  
7     several seconds. I mean, you're not looking  
8     at a norm Class III slot machine that you  
9     punch the deal and it goes, dzzt (sic.), and  
10    it gives you a prize.

11            They are creating the interactive  
12    deal so the player has to interact with the  
13    game, has to think about what they're doing,  
14    has to attain goals and that type of stuff.  
15    They are slow games. They generate a lot of  
16    money in a day, because people feed them a lot

17 of money. They will hit maximum bet.

18 You have got penny machines here

19 in Oklahoma now. Are they penny machines?

20 Well, when you're betting 300 pennies, they're

21 not penny machines. They're \$3 machines. And

22 we have got the same stand-alone slot machines

23 that are three reels, quarter deals, ain't

24 hardly anybody playing them. It's just 3

25 reels and the bet is 75 cents. They will bet

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1 three pennies and play a game longer.

2 So, I mean, if we're looking at --

3 right now, I can tell you that in the

4 development stage there is one company here in

5 Oklahoma that has a deal. And the first two

6 players have 400 nanoseconds to start the

7 game. And then for the rest of the people, 15

8 to 20 that's required to hook up to that gym,

9 you got another 600 nanoseconds. So 400 and

10 600 makes one second, and it will be a Class

11 II game. I have reviewed the game and looked

12 at it and dissected it and played it. And

13 that's what it is. I mean, it's actually a

14 Class II bingo game.

15 And the funny thing about it is

16 they went on to restricted it a little

17 further. Well, if those 15 to 20 people don't

18 add in there in another nanosecond, it kicks

19 everybody's money back to them. Is that going

20 to be a successful game giving the money back

21 to them? I don't think so. But, I mean,

22 that's what they restricted it to.

23 You know, so what I'm saying is I

24 think technology -- technology can be

25 developed. If the game is profitable, that

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1 technology will continue. I mean, as long as

2 there is a profitability in it, just like we

3 thought Class II industry is going away. And

4 I have visited with Esquire Gross. I'm very

5 concerned that even in Oklahoma right now, the

6 way the compact is wrote, we are allowing

7 stand-alone slot machines.

8 The law itself says they are not

9 supposed to have Class III slot machines. But  
10 we have had tribes here in Oklahoma that have  
11 bought off on the certification of it and we  
12 brought them in. And that's going to be a  
13 continuing problem that we as tribal  
14 regulators are going to have to face, because,  
15 you know, the letter of the law and the  
16 compact says stand-alone slot machines are not  
17 allowed. But GLI comes in and approves  
18 stand-alone slot machines and we have got  
19 them.

20 MR. HOUSER: Steve, I have a dumb  
21 question about bingo, maybe either one of you  
22 can answer. Is it possible if you are playing  
23 regular bingo that only person in the bingo  
24 hall, you can still play?

25 MR. YORK: Not without a caller.

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1 There would be two people involved in the  
2 game. The player would be a caller.

3 MR. HOUSER: But the player is,  
4 basically, a stand-alone player in that case?

5 MR. YORK: Yes.

6 MR. HOUSER: But you can replicate  
7 a person in the bingo hall.

8 CHAIRMAN HOGEN: Well, I think  
9 that's where you get into --

10 MR. YORK: Well, you would have to  
11 have a thousand dollar machine to make it  
12 profitable, two people --

13 CHAIRMAN HOGEN: Our time has come  
14 to an end here. We appreciate hearing what  
15 you have had to say. We will take this into  
16 consideration. If you have written comments,  
17 we very much would appreciate to receive it.

18 MR. HOUSER: And the technical  
19 standards, were they mailed out to the tribes  
20 or do you just get them from -- the ones are  
21 going to be printed in the "Federal Register".

22 CHAIRMAN HOGEN: I think they are  
23 just available. I think they are about -- how  
24 many pages long?

25 MR. GROSS: 120.

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1           CHAIRMAN HOGEN: 120 pages.

2           MR. VALANDRA: It will be in the  
3 "Federal Register" and also our website on  
4 Friday.

5           MR. HOUSER: Okay. I will take a  
6 look at it.

7           CHAIRMAN HOGEN: Okay. Well,  
8 thank you.

9           (Proceedings concluded.)

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1           C E R T I F I C A T E

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4 STATE OF OKLAHOMA    )

          ) SS:

5 COUNTY OF OKLAHOMA   )

6        I, Trena K. Bloye, Certified Shorthand

7 Reporter for the State of Oklahoma, certify that the

8 foregoing transcript of proceedings taken by me in

9 stenotype and thereafter transcribed is a true and

10 correct transcript of the proceedings; that they

11 were taken on August 9, 2006, at the Cox Convention

12 Center, Oklahoma City, State of Oklahoma; that I am

13 not an attorney for nor a relative of any said

14 parties, or otherwise interested in the event of

15 said action.

16        IN WITNESS WHEREOF, I have hereunto set my

17 hand and seal of office on this the 11th day of

18 August, 2006.

19

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21

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Trena K. Bloye  
Certified Shorthand Reporter  
for the State of Oklahoma

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